

IN THE HIGH COURT OF JUDICATURE

ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO :21341 of 2005

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Dated:7th November 2005.

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Between:

S.R.Balarami Reddy and others

..... PETITIONERS

AND

The Secretary to Government I&CAD, (P.W.) Department, Secretariat and others

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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W.P.NO.21341 OF 2005

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ORAL ORDER:

(Per the Hon'ble Sri Justice J.Chelameswar)

The petitioners 45 in number complained to the Andhra Pradesh Administrative Tribunal in C.A.No.974 of 2005 in O.A.No.7851 of 2003 that the respondents herein willfully disobeyed the orders of the Tribunal passed in O.A.No.7851 of 2003 dated 6th May 2004. The Tribunal by the order impugned in the present writ petition came to the conclusion that there was no willful default in obeying the orders of the Tribunal and therefore, refused to proceed against the respondents and closed the contempt case, hence the present writ petition.

The power to punish for contempt of Court is not inherent in every Court, barring the Supreme Court and the High Court, which derive such authority from the express language in Articles 129 and 215 of the Constitution of India respectively. Insofar as the rest of the judicial bodies are concerned, the power is required to be conferred by an express grant by the Legislature. The authority of the Administrative Tribunals to punish for contempt is conferred by virtue of Section 17 of the Administrative Tribunals Act. When an application is filed before the Administrative Tribunal, bringing to its notice that an order of the Tribunal has been willfully disobeyed, it is for the Administrative Tribunal to reach a conclusion whether there was any willful disobedience or not. Once the Administrative Tribunal records a finding holding either that there was a willful disobedience of some earlier order of the Tribunal or otherwise, the necessary legal consequences are; the party, who is found guilty of disobedience of the orders of the Tribunal, may be punished in accordance with the discretion of the Tribunal, which discretion is required to be exercised in accordance with the settled principles of law. However, if the Administrative Tribunal records a finding that there was no willful disobedience of its orders, it would still be a decision of the Tribunal; the necessary legal consequence is that no further proceedings

against the person alleged to have been committed contempt, would be taken.

The question in the present writ petition is that when the Administrative Tribunal records a finding that there is no willful disobedience of its earlier orders, whether such a decision is amenable to the jurisdiction of this Court under Article 226 of the Constitution.

Having regard to the language of the Contempt of Courts Act and the Administrative Tribunals Act, the orders, where the Court/Tribunal to whom the Contempt of Courts Act applies, by which it is held, that there is no willful disobedience of the orders of the Court/Tribunals, are not made appealable, whereas the orders by which the Court/Tribunal finds some person guilty of the contempt and consequently punish, are made expressly appealable.

The question whether an order, imposing punishment in exercise of the jurisdiction of Contempt by Administrative Tribunal, is amenable to the jurisdiction of the High Court either under Article 226 or 227 of the Constitution, fell for the consideration of the Supreme Court in **T.SUDHAKAR PRASAD v. GOVT.OF A.P. AND OTHERS**.

Dealing with the said question the Supreme Court held as follows:

“ The power of the High Court to punish for contempt of itself under Article 215 of the Constitution remains intact but the jurisdiction, power and authority to hear and decide the matters covered by sub-section (1) of Section 14 of the Act having been conferred on the Administrative Tribunals the jurisdiction of the High Court to that extent has been taken away and hence the same jurisdiction which vested in the high Court to punish for contempt of itself in the matters now falling within the jurisdiction of Tribunals if those matters would have continued to be heard by the High Court has now been conferred on the Administrative Tribunals under Section 17 of the Act. The jurisdiction is the same as vesting in the High Courts under Article 215 of the Constitution read with the provisions of the Contempt of Courts Act, 1971. The need for enacting Section 17 arose, firstly, to avoid doubts, and secondly, because the Tribunals are not “courts of record”. While holding the proceedings under Section 17 of the Act the Tribunal remains a Tribunal and so would be amenable to the jurisdiction of the high Court under Articles 226/227 of the Constitution subject to the well-established rules of self-restraint governing the discretion of the high Court to interfere with the pending proceedings and upset the interim or interlocutory orders of the Tribunals. However any order or decision of the Tribunal punishing for contempt shall be appealable only to the Supreme Court within 60 days from the date of the order appealed against in view of the specific provision contained in Section 19 of the Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunals Act, 1985. Section 17 of the Administrative Tribunals Act is a piece of legislation by reference. The

provisions of the Contempt of Courts Act are not as if lifted and incorporated in the text of the Administrative Tribunals Act (as is in the case of legislation by incorporation); they remain there where they are, yet while reading the provisions of the Contempt of Courts Act in the context of Tribunals, the same will be so read as to read the word "Tribunal" in place of the word "High Court" wherever it occurs, subject to the modifications set out in Section 17 of the Administrative Tribunals Act. Section 19 of the Contempt of Courts Act, 1971 provides for appeals. In its text also by virtue of Section 17 of the Administrative Tribunals Act, 1985 the word "High Court" shall be read as "Tribunal". Here, by way of abundant caution, we make it clear that the contempt of intra-Tribunal appeals i.e., appeal from an order or decision of a Member of a Tribunal sitting singly to a Bench of not less than two Members of the Tribunal is alien to the Administrative Tribunals Act, 1985. The question of any order made under the provisions of the Contempt of Courts Act, 1971 by a Member of the Tribunal sitting singly, if the rules of business framed by the Tribunal or the appropriate Government permit such hearing, being subjected to an appeal before a Bench of two or more Members of the Tribunal therefore does not arise. Any order or decision of the Tribunal punishing for contempt is appealable under Section 19 of the Act to the Supreme Court only. The Supreme Court in the case of *L. Chandra Kumar* has nowhere said that orders of the Tribunal holding the contemnor guilty and punishing for contempt shall also be subject to judicial scrutiny of the High Court under Articles 226/227 of the Constitution in spite of remedy of statutory appeal provided by Section 19 of the Contempt of Courts Act being available."

It can be seen from the above that the Supreme Court held that even in a case where a person who is found guilty of the contempt by the Administrative Tribunal such an order is not amenable to the jurisdiction of the High Court under Article 226 or 227 of the Constitution and the remedy of such person is only to approach the Supreme Court by way of an appeal under Section 19 of the Contempt of Courts Act.

It would be strange logic to hear that where the Tribunal declined to proceed with the contempt case on the ground that there is no willful disobedience of the orders of the Tribunal, to say that such an order is amenable to the jurisdiction of this Court under Article 226 or 227 of the Constitution.

Apart from the logic, the proceedings for Contempt of Court/Tribunal are not proceedings for the enforcement of the rights of the complainant. It is a well-settled proposition of law that the said proceedings are exclusively matters between the Court/Tribunal and the alleged contemnor. The role of the complainant is limited to that of an informant to the Court. The proceedings are meant for upholding the

majesty of the Court and it is for the Court/Tribunal to judiciously exercise the power to punish for contempt. It is for this reason, obviously, the Parliament never made an order refusing to proceed for contempt by a Court appealable. To introduce the concept of judicial review of such a situation would neither be consistent with the provisions of the Contempt of Courts Act, nor would it enhance the majesty of any Court.

In the circumstances, we are of the opinion that the present writ petition is not maintainable and the same is dismissed at the stage of admission. No costs.

J.Chelameswar, J

RAMESH RANGANATHAN, J

7th November 2005

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